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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,489	12/15/2003	Xia Zhao	4133-031323 (P-6125)	3805

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EXAMINER

CHORBAJI, MONZER R

ART UNIT	PAPER NUMBER
1744	

DATE MAILED: 07/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/736,489	Applicant(s) ZHAO ET AL.	
	Examiner MONZER R. CHORBAJI	Art Unit 1744	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 June 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-6, 8-52 and 54-56.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
 13. ☐ Other: _____.


 GLADYS JP CORCORAN
 SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because:

Explanation of how amended and new claims will be rejected: Amended independent claims 1, 17 and 32 will be rejected as independent claim 55 was rejected on pages 4-5 of the final action dated 04/19/2006. Dependent claims 2-3, 6, 8, 12-13, 16, 18, 21-22, 24-25, 28-31, 33-34, 36-38, 42-43, 46-52 and 54-56 will be rejected as shown on pages 2-5 of the final action dated 04/19/2006. Dependent claims 4-5, 23 and 35 will be rejected as shown on page 5 of the final action dated 04/19/2006 in combination with the Admitted State of The Prior Art evidence. Dependent claims 9, 14-15, 26, 39 and 44-45 will be rejected as shown on page 6 of the final action dated 04/19/2006 in combination with the Admitted State of The Prior Art evidence. Dependent claims 10-11, 27 and 40-41 will be rejected as shown on pages 6-7 of the final action dated 04/19/2006 in combination with the Admitted State of The Prior Art evidence. Dependent claims 19-20 will be rejected as shown on page 7 of the final action dated 04/19/2006 in combination with The Admitted State of The Prior Art evidence.

Response to Arguments

On page 13 of the Remarks section, applicant argues that, "There is nothing in Kozimor, however, which even remotely suggests that pre-filling the container prior to radiation treatment will achieve such result." Kozimor explicitly teaches that prefilled containers will undergo gamma irradiation sterilization step. See col.8, lines 47-50, col.4, lines 13-16, lines 36-40, col.8, lines 25-28, col.9, lines 5-8 and col.2, lines 38-41. Moreover, the benefit of maintaining oxidizable substances after radiation to below 3.4 ppm is disclosed in the admitted state of the prior art on page 2, lines 10-14 in order to prevent the deleterious chemical alteration of the contents of the container, which is caused by gamma radiation. Therefore, one of ordinary skill in the art upon reading Kozimor and European Pharmacopoeia requirements would recognize this benefit by preventing the concentration of oxidizable substance to go over 3.4 ppm after gamma radiation treatment. Clearly, the combination of the two references meet the features of the instant claims.